

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE A.K.BASHEER**

**TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929**

**WP(C).No. 23319 of 2007(A)**  
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**PETITIONER:**  
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**P.K.MOIDU,  
CHAIRMAN, NOLLIYULLATHIL EDUCATIONAL TRUST  
(REGD.NO.24/2000), NOLLIYULLATHIL, PAYANTHONG,  
KALLAI P.O., KOZHIKODE, PIN- 673 506.**

**BY ADV. SRI.M.V.BOSE  
SRI.VINOD MADHAVAN  
SMT.NISHA BOSE**

**RESPONDENT:**  
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**THE STATE OF KERALA,  
REPRESENTED BY THE PRINCIPAL SECRETARY TO  
GOVERNMENT, HIGHER EDUCATION (B) DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

**BY GOVT. PLEADER SRI. A.J. VARGHESE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**A.K. BASHEER, J.**

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**W.P.(C). NO. 23319 OF 2007**  
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Dated this the 31<sup>st</sup> day of July, 2007

**J U D G M E N T**

Petitioner is stated to be the Chairman of Nellyullathil Educational Trust at Kallachi in Kozhikode district. Ext.P1 dated December 27, 2002 shows that the Government had granted NOC to the petitioner/Trust to start the Unaided Self Financing B.Ed Training College during 2003-04 subject to affiliation of the University concerned and approval of NCTE.

2. It is admitted by the petitioner that the institution could not be started in the year 2003-04 because of financial constraints. According to him, the Trust had purchased 7.30 acres of land and arranged all infrastructural facilities. On March 1, 2007, petitioner had made Ext.P3 request to the Government to “issue an order extending the validity of the NOC granted under Ext.P1, for 2007-08”. It is contended by the petitioner that he did not receive any information with regard to the action taken in the matter. Ultimately, he received Ext.P4 communication from the State Public Information Officer attached to the Government, informing him that his

application had been rejected by the Government. Petitioner was further informed that he would get a copy of the relevant files, if he remitted the requisite fee before the treasury.

3. The prayer in this writ petition is to quash Ext.P4 communication issued by the State Public Information Officer. The other prayer is to issue a writ of mandamus to the respondents to accede to the request made by the petitioner in Ext.P3.

4. Having heard learned counsel for the petitioner and the learned Government Pleader, I am of the view that the prayers in the writ petition cannot be allowed. As rightly pointed out by the learned Government Pleader, there is nothing on record to show that petitioner had made any application in the previous years for reviving or renewing the validity of NOC. Even assuming the petitioner could not start the institution in the year 2003-04 due to financial stringencies, nothing prevented him in approaching the Government at the relevant time for extending the validity. That not having been done, the request now made by the petitioner to revive the validity of NOC for the academic year 2007-08 cannot be sustained, it is contended by learned Government Pleader.

5. Anyhow, in my view the Government ought to have given an

opportunity of hearing to the petitioner before the decision referred to in Ext.P4 was taken. If there were any genuine reasons which disabled the petitioner to start the institution, he could have explained the position before the Government, if such an opportunity had been given. In that view of the matter, I am satisfied that the Government has to be directed to reconsider the matter.

In the above facts and circumstances, the writ petition is disposed of with a direction to the Government to take a fresh decision on Ext.P3 after hearing the petitioner. It will be open to the Government to take a decision in the matter on its merit and in accordance with law. This shall be done, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment. Petitioner shall produce a certified copy of the judgment along with a copy of the writ petition before the Government for compliance.

**A.K. BASHEER, JUDGE**

vps

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**JUDGMENT**

**1ST MARCH, 2007**